

cc: Barker
IAM

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10

SEP 06 2006
DALLAS
REGIONAL OFFICE

MERCEDES-BENZ US INTERNATIONAL, INC..

and

Case 10-CA-36283

INTERNATIONAL ASSOCIATION OF
MACHINISTS, AFL-CIO-CLC

COMPLAINT

It having been charged by the International Association of Machinists, AFL-CIO-CLC (herein referred to as the Union) that Mercedes-Benz US International, Inc. (herein referred to as the Respondent), has engaged and is engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., (herein called the Act), the General Counsel of the National Labor Relations Board, on behalf of the National Labor Relations Board (herein called the Board), by the undersigned pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, hereby issues this Complaint and alleges as follows:

1 The charge in this proceeding was filed by the Charging Party on May 26, 2006, and a copy was served by regular mail upon Respondent on the same date.

2. At all material times Respondent, an Alabama Corporation with an office and place of business located in Vance, Alabama, herein called the Respondent's facility, has been engaged in manufacturing automobiles.

3. During the past twelve month period, the Respondent sold and shipped from its Vance, Alabama facility, goods valued in excess of \$50,000 directly to points outside the State of Alabama.

4. At all material times Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals have held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and Agents of Respondent within the meaning of Section 2(13) of the Act:

- a. Danny Bankston - Group Leader
- b. Jeff Burbank - Human Resources ("HR") Team Representative
- c. Marcene Emmett - HR Team Representative
- d. Jim Layhew - Assistant Manager of Quality
- e. Ken Hayes - Manager, Body Shop
- f. Jim Cunningham - Manager of HR, Safety and Security
- g. Phil Johnston - Vice President, Operations
- h. Paula Lillard - Vice President, HR and Administration

7. At all times material herein, and including April 6, 2006, April 13, 2006, and May 12, 2006, Respondent has maintained a policy and practice at its facility of closely surveiling and monitoring the conversations of employees, during work time, who support the Union.

8. Respondent engaged in the conduct described above in paragraph 7 because employees assisted the Union and engaged in concerted protected activities, and to discourage other employees from engaging in these activities.

8. By the conduct described above in paragraph 7 and 8, inclusive, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be **received by this office on or before September 14, 2006, or postmarked on or before September 13, 2006.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

Dated at Atlanta, Georgia, this 31st day of August, 2006.



A handwritten signature in cursive script that reads "Martin M. Arlook".

Martin M. Arlook
Regional Director, Region 10
National Labor Relations Board
233 Peachtree Street, N.E.
Harris Tower, Suite 1000
Atlanta, Georgia 30303



United States Government

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**DALLAS
REGIONAL OFFICE**

SEP 06 2006

**DALLAS
REGIONAL OFFICE**

August 31, 2006

Jeffrey M. Smith, Grand Lodge Representative
International Association of Machinists and Aerospace Workers, AFL-CIO
1111 W. Mockingbird Lane
Suite 1357
Dallas, TX 75247

Re: **Mercedes-Benz US International**
10-CA-36283

Dear Mr. Smith:

The Region has carefully investigated and considered your charge against Mercedes-Benz US International alleging violations under Section 8 of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing for the following reasons:

The evidence was insufficient to establish that the banning of employee Dobbie Norris' access card on three separate occasions was a reprisal for his Union and protected concerted activities, rather than an inadvertent error as asserted by the Employer. I note further that there have been no problems with Norris' access card since the final incident on or about May 11, 2006. I am, therefore, refusing to issue complaint on this allegation of the charge. This, however, does not affect further processing of the remaining allegation of the charge as I have determined that complaint should issue, absent prompt settlement.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the General Counsel of the National Labor Relations Board. If you wish to file an appeal, your attention is directed to the following:

Appeal Due Date: The appeal must be received by the General Counsel in Washington, D.C. by the close of business at 5:00 p.m. (EDT) on September 14, 2006. However, if you mail the appeal, it will be considered timely if it is postmarked no later than one day before the due date. The appeal MAY NOT be filed by facsimile transmission.

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file the above-described document electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlr.gov.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate.

Dismissal Letter
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While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extensions of time. A request for an extension of time to file an appeal **must be received** on or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Appeal Contents: You must submit a complete statement setting forth the facts and reasons why you believe the decision to dismiss your charge was incorrect. However, the enclosed Appeal Form (NLRB-4767) by itself will be treated as an appeal if timely filed upon the General Counsel and me.

Address for Appeal: The appeal should be sent to the General Counsel of the National Labor Relations Board, Office of Appeals, 1099 14th Street, N.W., Washington, D.C. 20570. You should send a copy of the appeal to me.

Appeal Contents: You must notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed Notice of Appeal Form (NLRB-4767) and send one copy of the form to all parties and representatives whose names and addresses are set forth in this letter. The appeal itself should not be sent to the other party(ies). Mailing the notice form to the parties does not relieve you from filing the appeal itself with the General Counsel and sending a copy of the appeal to me by the due date.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Very truly yours,



Martin M. Arlook
Regional Director

Attachments

cc: Office of the General Counsel
National Labor Relations Board
Washington, D.C. 20570

Marcel L. Debruge, General Counsel
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Birmingham, AL 35203